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# The Rap Sheet

Issue No. 3

March 1999

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NEWSLETTER TO THE CRIMINAL JUSTICE ACT PANEL OF THE UNITED STATES  
DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

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## **I. REGIONAL PANEL ATTORNEY TRAINING SEMINARS**

Attached is the Application for the national panel attorney training seminars to be held in two different locations in 1999. "Winning Strategies for Defending Federal Criminal Cases" will be presented in Savannah, Georgia, in June, and in Portland, Oregon, in August.

If you are interested in applying, please do so immediately, as applications must be submitted at least sixty days prior to the date of the seminar.

If you have questions about the seminar, call the Federal Defender Training Group at (800) 788-9908.

## **II. PACDL TRAINING**

The Pennsylvania Association of Criminal Defense Lawyers is pleased to announce their upcoming course, "Fighting Back: Overcoming the Odds in Criminal Practice," to be held Friday, April 23, 1999, at the Top of the Triangle, USX Tower, in Downtown Pittsburgh.

Included in the registration fee is a luncheon, at which PACDL will present the *LibertyWatch Commendation for Judicial Excellence* to our own Chief Judge Donald Ziegler, and the *LibertyWatch Commendation for Excellence in Journalism* to Pittsburgh Post-Gazette Investigative Reporter Bill Moushey.

A Course overview is attached, and full brochures will be mailed to you shortly from PACDL. The Course has been approved for five substantive hours and one ethics hour by the Pennsylvania CLE Board.

### III. CLE TRAINING SURVEY

The Federal Defender Office is presently planning a September training program strictly for panel members, once again offering bargain rate CLE credits “at cost” (\$1.50 per credit hour). Although we tentatively plan to devote at least 90 minutes to sentencing issues, we really want **your** input as to the subjects most beneficial and relevant **to you**. Attempting to find the least onerous method for you to express your opinions, calculated to maximize the number of responses, we have enclosed a form for you to fill out and fax back to us.

**Please** take a minute to complete the form by ranking the suggested topics in order of your preferences, ranking at least six topics, with #1 being your first choice. **Please** feel free to add ANY other topics you think helpful or needed.

### IV. BILINGUAL STATUS

The Third Circuit recently asked for a list of panel attorneys fluent in languages other than English. If you are fluent in any other language and/or can sign for the hearing impaired, please call the Federal Defender Office (412/ 644-6565) and give this information to Lisa Lewis.

### V. PANEL ATTORNEY RATE INCREASE

The following is an article written by the Defender Services Division of the Administrative Office of the United States Courts for circulation to CJA panel members regarding the panel attorney rate increase:

The federal judiciary has included in its FY 2000 Defender Services appropriation request funding to implement a \$75 hourly Criminal Justice Act (CJA) private “panel” attorney rate nationwide. If Congress approves the judiciary’s request, the \$75 maximum hourly rate for in-court and out-of-court work in non-capital cases would take effect on April 1, 2000.

In his *1998 Year-End Report of the Federal Judiciary*, Chief Justice William H. Rehnquist urged Congress to give “very serious consideration” to the judiciary’s request for funding to implement the \$75 rate in FY 2000. Justice Rehnquist observed that inflation has eroded the currently authorized hourly rates and that “[i]nadequate compensation for panel attorneys is seriously hampering the ability of judges to recruit attorneys to provide effective representation.”

In 1986, Congress enacted legislation which authorized the Judicial Conference to increase the hourly rates paid to panel attorneys from \$60 in-court/\$40 out-of-court to \$75, and to make annual cost-of-living adjustments to the \$75 rate beginning in 1990. Although the Judicial Conference has approved the \$75 rate for in-court and out-of-court work in 93 of the 94 judicial districts, most districts have received only one \$5 per hour increase to the \$60/\$40 rates set by statute in 1984, over 14 years ago. Congress has appropriated funds sufficient to pay higher rates up to \$75 in only 16 districts, which were the first to apply for alternative CJA hourly rates. The \$75 rate is substantially lower than the \$104 per hour rate which would be authorized in 1999 if the annual federal pay increases, approved by the Judicial Conference for CJA rates, were applied.

There is widespread support in the federal criminal justice system for the \$75 hourly rate, from judges, the Department of Justice, private bar associations, and federal defenders. The Federal Judges Association, in endorsing the rate, stated that the current hourly rates are “significantly compromising the ability of the court to recruit and retain attorneys under the Criminal Justice Act.” The Federal Magistrate Judges Association endorsed the rate as “imperative...to assure that the courts can appoint qualified and experienced counsel.” The Department of Justice also has indicated its support for the \$75 rate.

At its August 1998 meeting, the ABA’s House of Delegates unanimously approved a resolution (adopted by the ABA’s Criminal Justice Section in March 1998) urging Congress to fund the CJA at a level sufficient to support implementation of the \$75 rate and annual cost-of-living increases for CJA panel attorneys, and urging the Judicial Conference to make every effort to obtain this funding. The NACDL, National Legal Aid and Defender Association, and Association of Federal Defenders likewise have passed resolutions in support of the \$75 rate and cost-of-living adjustments.

**VI. PANEL ATTORNEY REPRESENTATIVE CONFERENCE - MARCH, 1999**

A National Panel Attorney Representatives Conference was held March 6-7, 1999, in Crystal City, Virginia. Joel Johnston is the Panel Attorney Representative for the Western District of Pennsylvania. Joel will be reporting to you the issues and topics discussed at the Conference. Joel's telephone number is (412) 471-0220.

**VII. WHAT WOULD YOU LIKE ON YOUR RAP SHEET ?**



Do you have suggestions for articles or items to appear in *The Rap Sheet*? What would you like to see included? Additionally, we encourage you to call or send us your success stories and strategies so that we can share them with others. Call **Tina Famiglietti** at the FPD's. Consideration will be given to all suggestions.

Please send all address changes, new phone numbers, employer ID numbers, and intentions to withdraw as a member of the CJA Panel to Tina Famiglietti, Administrative Officer, Federal Public Defender, 960 Penn Avenue, Suite 415, Pittsburgh, PA 15222-3811, or FAX to (412) 644-4594.

**Enclosures:**

CLE Training Survey

Application for Regional Panel Attorney Training Seminars

PACDL Seminar Announcement

*The Pennsylvania Association of Criminal Defense Lawyers is pleased to announce:*

**FIGHTING BACK: OVERCOMING THE ODDS IN CRIMINAL PRACTICE**

PACDL Spring Meeting and Seminar

Friday, April 23, 1999

Top of the Triangle - USX Tower

600 Grant Street - Pittsburgh, PA

**COURSE OVERVIEW - Friday, April 23, 1999**

- 8:00 a.m. Registration and continental breakfast
- 9:00 a.m. **Telling Your Client's Story: The Importance of Developing a Theme of the Case and Defining the Contours of the Battlefield** William C. Costopoulos, Esquire, Costopoulos, Foster & Fields, Lemoyne, PA.
- 10:00 a.m. **Motions That Make the Prosecutor Seasick** Paul D. Boas, Esquire, Pittsburgh, PA.
- 11:00 a.m. Break
- 11:15 a.m. **The Sword and the Shield: Evidence Rules that Acquit** Charles B. Gibbons, Esquire, Klett Lieber Rooney & Schorling P.C., Pittsburgh, PA.
- 12:15 p.m. Luncheon and presentation of the *LibertyWatch Commendation for Judicial Excellence* to the Honorable Donald E. Ziegler, Chief Judge, United States District Court for the Western District of Pennsylvania and the *LibertyWatch Commendation for Excellence in Journalism* to Bill Moushey, Investigative Reporter, Pittsburgh Post-Gazette (included in your registration).
- 1:30 p.m. **Avoiding the Ambush: How to Stop Your State Molehill from Turning into a Federal Mountain** Donald E. Ziegler, Chief Judge, United States District Court for the Western District of Pennsylvania, Shelley Stark, Federal Public Defender for the Western District of Pennsylvania and Thomas R. Ceraso, Esquire, Greensburg, PA.
- 2:30 p.m. **News From the Legislative Front** Senator Allen G. Kukovich, Pennsylvania Senatorial District 39, North Huntingdon, PA.
- 3:30 p.m. Break
- 3:45 p.m. **Ethics and the Government Snitch - Guerilla Warfare at the Millennium's End** John L. Doherty, Disciplinary Counsel of the Supreme Court of Pennsylvania, Bill Moushey, Investigative Reporter, Pittsburgh Post-Gazette and Gary Zimmerman, Esquire, Pittsburgh, PA.
- 4:45 p.m. Seminar concludes

***This seminar has been approved for 5 substantive hours and 1 ethics hour by the PA CLE Board.***

**Saturday, April 24, 1999 - 8:30 a.m.** - General Membership and Board of Directors' Meeting at the Ramada Plaza Suites, One Bigelow Square, Pittsburgh, PA 15219.

**CRIMINAL JUSTICE ACT  
PANEL ATTORNEY TRAINING SURVEY**

I would like CLE training in the following areas (please rank at least your first six preferences, with #1 being the most desired training category):

- \_\_\_\_\_ *Detention and Bail*
- \_\_\_\_\_ *Motions* - Specifically, \_\_\_\_\_
- \_\_\_\_\_ *Discovery Techniques*
- \_\_\_\_\_ *Rules of Evidence* - Specifically, \_\_\_\_\_
- \_\_\_\_\_ *Constitutional Issues* (including Search & Seizure) -  
Specifically, \_\_\_\_\_
- \_\_\_\_\_ *Voir Dire* (including *Batson* issues)
- \_\_\_\_\_ *Jury Instructions*
- \_\_\_\_\_ *Negotiating Pleas*
- \_\_\_\_\_ *Defenses* - Specifically, \_\_\_\_\_
- \_\_\_\_\_ *Offenses* - Specifically, \_\_\_\_\_
- \_\_\_\_\_ *Ethics* - Specifically, \_\_\_\_\_
- \_\_\_\_\_ *Expert Witnesses*
- \_\_\_\_\_ *Sentencing* - Specifically, \_\_\_\_\_
- \_\_\_\_\_ *Appellate Issues*
- \_\_\_\_\_ *Other:* \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
*Name (please print)*

\_\_\_\_\_  
*Date*

**Return by FAX to (412) 644-4594 before  
March 26, 1999. THANK YOU.**

**WINNING**

# STRATEGIES FOR DEFENDING FEDERAL CRIMINAL CASES

Seminars presented by the Administrative Office of the U.S. Courts, the Federal Public and Community Defenders, and the Federal Defender Training Group

**June 3 - 5, 1999**

**Savannah, Georgia**

**August 12 - 14, 1999**

**Portland, Oregon**

The seminars will cover all aspects of a federal criminal case. Most of the topics will be covered in breakout sessions and workshops.

## **TOPICS INCLUDE:**

**Cross Examination Workshops**

**Sentencing Workshops**

**Defending Fraud Cases**

**Departures after Koon**

**Getting the Jury to Listen**

**Negotiating Pleas**

**Discovery Techniques**

**Federal Gun Cases: Caron & the Bailey-fix**

**Drug Cases: Mandatory Minimums,  
Safety Valve & Drug Quantities**

**Federal Capital Habeas**

**Search & Seizure**

**Ethics**

**RICO & Other Conspiracies**

**Crime & the Internet**

**APPLICATION HAS BEEN MADE FOR CLE ACCREDITATION.**

**Enrollment is limited to Criminal Justice Act (CJA) panel attorneys** (those who accept court appointments in federal criminal cases). Tuition and program materials are free to attendees. **Attendees are responsible for all expenses for travel, hotel accommodations, food and other incidentals.** To be considered, applicants cannot have attended a CJA seminar sponsored by the Administrative Office within the past two years. Applications must be submitted at least 60 days prior to the date of the seminar that is requested. Please note that selections are not made on a first-received basis. Upon acceptance to one of the seminars, a draft schedule and hotel information will be provided to the applicants. **DO NOT MAKE AIRLINE RESERVATIONS UNTIL RECEIPT OF THE ACCEPTANCE LETTER.**

To apply, complete the following form and fax or mail it to the Federal Defender Training Group, 529 14<sup>th</sup> Street N.W., Suite 200, Washington, D.C. 20045; Fax number (202) 628-4094.

**For further information, call (800) 788-9908.**

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## **APPLICATION FORM (Please Print or Type)**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

TEL: \_\_\_\_\_ FAX: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

District(s) in which you practice: \_\_\_\_\_

Percentage of practice devoted to CJA work: \_\_\_\_\_ Number of  
federal criminal jury trials: \_\_\_\_\_ State Bar Number: \_\_\_\_\_

I wish to attend the seminar in: Savannah, Georgia Portland, Oregon